

Conservation Commission, December 17, 2012

Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
December 17, 2012

Meeting was called to order at 6:16 p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Harding, Mr. Parys, and Ms. Scott-Pipes.

Also Present: Carol Logue, Secretary

Agenda: Motion to amend the agenda to include discussion: 14 Oceanside retaining wall, road opening at Crosbie property, 284 Central Ave., yard at Steverman's farm on Country Way, and Henry Larson's offer of land at 22 Shadwell Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Mr. Snow: Larsen: 22 Shadwell offer of property. Abuts other property he has donated. Need a little more information.

14 Oceanside Drive: Letter from Laura Harbottle regarding a retaining wall at 14 Oceanside wondering if Commission approved. Don't believe we approved that. Suppose to let barrier beach move with wind and wave. Todd & Penny take a look at and Penny will also call Mr. Larson. Mr. Harding: wall shouldn't be there, take it out, send a letter.

Entrance to Crosbie property, Clapp Road. In the process of finalizing plot plans. Clapp Road is a scenic road, need permission from the Planning Board to open the stone wall and cut a couple of trees. Will submit the application on behalf of the owners.

Mr. Snow: Rosemary Dobie brought in photos of 280 Central Ave. a couple of meetings ago. Met with Don Hourihan, he showed what concerned him. Does not appear that the bulldozer went any further

into the marsh than the over wash, but they didn't need to go that far with the material. His concern is, if another storm comes, material will get washed further into the marsh, but until we have an agent, Mr. Snow would be reluctant to talk to the town. Have to get together with DPW and go over the orders. They have to understand where some of this material will be going. Don't have money to move back on the beach after each storm; will move once in the spring. Different subcontractors hired every year, needs an annual preconstruction. Mr. Harding: Many of the residents are having it removed; seen it trucked away. Material should be put back on the beach. You would think they would want it in front of their houses. If Richard wants to approach the ones that are removing, he can. Ms. Dobie: Most are pushing back, but some are removing.

Ms. Scott-Pipes: Steverman's farm new build. Concerned that the house is out of our jurisdiction, but the way the lot was cut, once the house is built, the yard/lawn will go into the 50' buffer, right down to the tree line. Once farming has stopped, lose agricultural exemption and it becomes a jurisdictional buffer zone. There is a plan in the file; they had to go in front of Planning. The lot goes right down to the tree line of Tack Factory Pond. Come spring they will seed the whole thing and have a large yard. Mr. Parys: how far away from the 100' buffer? Close, but don't know how close. Get a copy of the plot plan. Do have discretion in increasing the buffer zone near the reservoir. A letter should go to the owner or builder.

Order of Conditions: Twohig/Nicastro, 188 Central Ave. (porch addition/reset rip rap boulders)

Since July 4th property rights and ownership have been raised in Humarock. The Commission is just giving the applicant approval for the methodologically. Seems they are doing what they can to the house without elevating. It is up to them to access the property, not giving any permission to work on neighbors' property. With what we know about revetments, at least some sea grass should be planted. Mr. Parys: Don't have to elevate if it is not a substantial improvement. Mr. Snow: Hoping to see the town get a consultant to address some of these issues. Central Ave. is washing out repeatedly; rapid rise in the sea level. Mr. Parys: barrier beach wants to migrate toward land. Mr. Snow:

can't treat it the same when it is developed because of safety issues. Things need to be addressed adequately; not competent to make those decisions. Motion to condition the project Mr. Breitenstein. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: McSharry Brothers, Lot 1 218 First Parish Road (new build) (cont.)

Wetlands Hearing: McSharry Brothers, Lot 2 218 First Parish Road (new build) (cont.)

Applicant's representative requested a continuance. Motion to continue the hearing to January 9, 2013 at 6:25 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Bartlett Fields Realty Trust, Booth Hill & Thomas Clapp Roads (wetland delineation) (cont.)

Applicant's representative requested a continuance, just received consultant's check. Motion to continue the hearing to January 9, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Sheerin, 305 Country Way (wetland delineation) (cont.)

Greg Morse was present at the hearing. Letters had been submitted from Lance Van Lenten and a follow-up letter from Bruce Bouck from DEP, which were read. ANRAD requests delineation of the BVW. Commission hired Steve Ivas of Ivas Environmental for a peer review. He walked the site with Brad Holmes and slight adjustments were made. Limits of the 2 intermittent streams on the southern portion of the site were marked. A-114 becomes an intermittent stream and drains toward Tack Factory Pond. Manmade drainage swale, non-jurisdictional, did not connect to an up-gradient wetland. Ms. Scott-Pipes asked for clarification of what Lance was referring to in his letter. DEP Zone A is a 200 ft. horizontal buffer from a tributary stream that enters a surface water supply. Work proposed within a Zone A must comply with applicable Zoning requirements and Board of Health. GIS and aerial photos extended Zone A toward a previous filing at 5 Williamsburg Lane. Flagged a small wetland at the back of the property, but didn't have the opportunity to follow the stream. On

behalf of the applicant we will request Mr. Bouck to come out to the site; will keep the Commission apprised. Steve Ivas: There is a 20' drainage easement with a 36" inside diameter culvert coming onto the site. The up-gradient area of the watershed flows to the large outfall that appears to extend to Black Beech Lane and 2 drop inlets in the lawns of 324 and 324R Country Way, however, no up-gradient wetland area was observed. It then enters another property; slope changes, it grades out and channel is scoured out. There is a point where all channels stop. At A28 on the plan cannot detect any channel in the ground, then the boulder field starts. About 100' down gradient it starts up again with parallel channels. Groundwater is coming out of the boulder field. Followed the bank of the nearest stream channel until it met another stream that comes off the Williamsburg property. The next stream is on the DEP map. Agree the town should ask Mr. Bouck to look at the site. Mr. Krusell: line was much higher on the property in 1987. Mr. Ivas: The only variable used then was vegetation. In 1996 changed from just vegetation, to soils and hydrology. Ms. Scott-Pipes: do you agree the lines are correct, except for the issue with the state? Yes. Mr. Breitenstein: given the location of the site, if there is any time to increase the buffer zones, this is the property. Don Nagle on behalf Bill Krusell and Lenore White: Just received the plan today and the report last Thursday from Mr. Ivas. This is an ANRAD the Commission is not being asked to take a look at the tributary, it is not a resource under the WPA. Defined term under Zoning and DEP uses tributaries to determine Zone A of a Drinking Water Supply. Mr. Snow: unfortunately we are without an agent for this complex site. DEP Map was adopted by Zoning. A town or board can't change, only DEP can. Commission is charged with the resource areas, which doesn't include tributaries. Urge the board to simply leave Zone A as is on the plan. But the plan now shows Zone A and Water Resource Protection District in different locations. Notes 2 and 3 are contradictory on the plan, causes confusion since a tributary is not appropriate under this forum. Mr. Ivas: the lines of Zone A and Water Resource Protection District are not made up. The problem with Notes #2 and #3, they are separate protection districts, plus DEP Zone A makes three. Mr. Snow: do we have all the resource areas on the plan? Mr. Ivas: The basis for Zone A is on the plan of record. Agree your task as a Commission is to look at wetland resource areas on this site, but Zone A is referenced in

the regs. Put DEP tributary on the plan. Lenore White, confusion lays with the fact that Zone A definition of a tributary is being used, then taking the definition of a stream under WPA; defined totally different. A stream is non-jurisdictional if there are no wetlands above. Have a strong opinion that the plan is not correct in many facets. Mr. Snow: Make sure we stick to what is and isn't on site. Seems there is a misinterruption of the regs. Mr. Ivas: IB7 to IB1 is jurisdictional, above that, nothing else is jurisdictional, no BVW upstream. Zone A is referenced in the regs, they do have jurisdiction; very complex. Atty. Nagle: respectfully disagrees. Would agree applicant has the obligation to show Zone A and Water Resource Protection District. Mr. Snow: Submit a letter summarizing the issues. Any question as to where the tributary is, other than what is shown on the local Zoning map will have to be taken up with the town; Commission doesn't determine whether Zone A is accurate or not. Motion to continue the hearing to January 23, 2013 at 6:25 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Perkins, 309 Central Ave. (septic repair) (cont.) Applicant's representative requested a continuance, still waiting for a landscape plan. Motion to continue the hearing to January 23, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: K & E Construction/Johnson, Lot 4B & 6 Mann Hill & Hood Roads (new build)* BYLAW ONLY

Kevin Grady, Grady Consulting, Inc. was present at the hearing. Abutters notification was submitted. This property is on the corner of Mann Hill and Hood Roads, vacant wooded parcels. John Zimmer flagged the isolated vegetated wetland. Project is the construction of new single-family dwelling. Work within 100' buffer is tree clearing, grading and construction of infiltration structure. Driveway placed as far from resource area as possible. Property has town sewer, water line outside of buffer zone, and overhead electric service. Erosion controls will be silt sock. Proposing roof drain leaders, foundation drain at the 50' no disturb zone. Ms. Scott-Pipes: staying out of the 50', but clearing every single tree in the 100' buffer; need mitigation. Leaving the 50' buffer alone, utilizing that area to conform to the bylaw. Difficult to

infiltrate the water; spending a lot of money to meet the storm water regs. Suggest that is our mitigation. It is an intricate drainage design. But you are doing what has to be done to build the house. Mr. Breitenstein: Must be some other way than clearing out the whole area. Buffer should be marked with plantings 4' on center. All water is being drained toward catch basin and there is a drainage ditch along Hood Road. Just because it is isolated, still goes to the ocean. Analyzed the site, not increasing flow from the site, proposing to plant lawn, prepared bioretention below the lawn, which will provide groundwater mitigation for the runoff. Plant a row of native bushes along the whole 50' buffer from end to end. Mr. Harding: plant to create a barrier. Steve Ivas: suggest bayberry, which grows both ways, up and out for thickness. Mr. Snow: triangle is basically uphill, groundwater is fairly high. Along with the plantings along the 50' buffer, at the area marked proposed tree line on the plan, plant some trees and keep the rest of the area natural/wooded; could put in the orders. Mr. Ivas: For construction purposes, plant red cedars. Ms. Scott-Pipes: post and rail fence is down in 20 years, put granite markers and 4' x 4' posts with signs. Condition a planting plan. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Gilbert, 36 Border Street (new build) (cont.) Greg Morse was present at the hearing. Last meeting the plans were submitted too late. New single-family home. Made a number of revisions: Pulled foundation a little further away from the wetland; 25' setback. Bold portion on plan poured concrete wall. Two poured walls anchored to ledge, the rest on sonotubes. Sheet 2 shows plantings: American holly, dogwood, blueberry, sumac, and others. Identified the individual trees that will be removed. One tree in the buffer that will be replaced. 40" caliper trees are staying at the front of the lot. House upgradient, most is over existing ledge; semi-cleared at some point. Requesting variance from the 50' buffer requirements. Steve Ivas: looked through the entire series of flags, they were fine, but there was a problem with location of intermittent stream. Intermittent stream brings storm drainage around the entire site down to culvert and across Border Street and into the marsh. Entire area was filled many years ago. Will assist with the invasive species, almost 100% invasive species. Happy with the plan and replication plan as well. Mr. Harding:

hate to see all the trees in red go, but mitigated well. Mr. Breitenstein: difficult decision to make, but time out there well spent, well done and professional. Mr. Ivas: request that an order be written regarding the green trees that are staying be listed and numbered on the plan and recorded at the Registry of Deeds. Also a Botanist should be on site when clearing. Ms. Scott-Pipes: being out with Steve and walking the property, you have come up with a really good solution, but still have that problem with the 50% buffer. Red trees are located where the septic is going. Living part of house is about 1300 sq. ft., not including garage which is 17' wide. Mr. Snow: modest home, typically we see a substantial house. We are bending a little here, between the environment and the improvements. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Amendment: RJB Development Corp./Burwick, 513 First Parish Road (catch basin)*

Greg Morse was present at the hearing. Abutters notification was submitted. Requested an amendment. Commission issued an Emergency Certificate for the street opening permit to add a new catch basin. The plan originally approved was another engineering firm. Found the original catch basin to be repaired, worked fine. Water comes down First Parish across their property and town's property and undermining the road. Requested permission to add a new catch basin. Showed pictures of the catch basin. Stabilized slope; used grade standard from DPW. Rip rap and plantings handling the flows appropriately. Mr. Breitenstein: compared to some of the mitigation we see, definitely a benefit to the intermittent stream and wetland. Susan Ryan, 516 First Parish: attended the meeting, raised issue of water on the street, but didn't know about the October meeting. Problem was exacerbated by the building of the house. Laid all out to the Commission and this is the end result. Playing a catch 22, could have avoided back in October of 2011, In November the applicant was to pay money to the DPW. Taken a very long time for this to happen, reviewed all the meeting notes. There was delay, the whole process has been unsatisfactory, huge problem on the street. Have been in touch with Jim O'Connell with issues going on. Mr. Snow: maybe recollection is a little different. When they proposed this project, showed sheeting water off the road. What we wanted to solve was the

water coming off of First Parish Road, which was eroding the edge and going into the wetlands. Lower basin would be repaired to remove impurities before water went into the wetlands. The applicant could have done the lower basin, but by working together there is a better solution. By Jim O'Connell working with Mr. Burwick and Mr. Morse, they came up with something better than what was proposed. The whole idea was to clean up the water before it got to the wetlands. Ms. Ryan: had this been considered and considered carefully back in October 2011, before the house was there, there wasn't a flooding problem. House has impacted. Frustration with what has gone on. Mr. Snow: the problem of the road washing out had been occurring all along. Even though the house is a little uphill, the house is not putting water onto the road. Mr. Breitenstein: before they cut down the trees, the bank was stable, and the sheet flow went into the property. The catch basin was built because the house was built in the 100' and 50' buffers. Fixed the problem when they built the catch basin. Frustration every time with work in the 100' buffer. We do the best we can. Ms. Ryan: this is my venue to vent frustration. Mr. Bjorklund: at the original hearings, all the abutters said the road flooded. Now there is a house and there is no flooding. There was an issue when building was going on and cars were parked along the street, but it was environmentally worked out properly. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Anthony, Thomas Clapp Road (new build)
Greg Morse was present at the hearing. He requested a continuance to receive report from consultant. Motion to continue the hearing to January 9, 2013 at 6:35 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Carbone, 25 Town Way Extension (install septic tank)*

Robert Crawford, E.E.T., Inc. was present at the hearing. Abutters notification was submitted. His is an existing house on Town Way Extension on westerly side away from the ocean. Apparently the last storm of December existing cesspool was washed out. Proposing to replace cesspool with a 2000 septic tank, as far away from the water and still on the lot as possible. Proximity to property line required a

variance; 2' to 3' of cover; weight of the tank itself will not allow buoyancy. DEP allowed. Do allow in a V Zone. Elevation 18' where the house is, between 17' & 18' where the tank is to be installed. If there is a tank with leaching facility, requires elevation. Mr. Parys: how often does it have to be pumped for a 3 bedroom house? Depends on the flow. Existing 2-bedroom house. Approximate flow 220 gallons per day. Given the cost of pumping could be expensive, but it is a seasonal home. Will be pumped out for the season. Board of Health requires generator be provided when power goes out. Has Board of Health approval. Did calculations. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Tight tank requires state approval. Motion to continue to January 23, 2013 at 6:35 p.m. Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Mr. Breitenstein: at Mann Hill and Hood Road, end of Hood Road and Hatherly, not under our jurisdiction, problem with erosion controls. Who has jurisdiction? Planning Board oversees that, tell Laura.

CORRESPONDENCE

December 4, 2012 – December 17, 2012

1. Revised plans (12/5/12) for 305 Country Way (in file)
2. Coastal Services Magazine
3. Recording of CofC 68-1470 – Babineau, 13 Stone Ave. (in file)
4. Report – Ivas, 68-2379 & 68-2380 – 218 First Parish Road Lots 1 & 2 (in file)
5. North River Commission 56 Moorland Road – (replace storage shed, landscaping to include walls, patio, parking & replacing invasive exotics and lawn with native plantings – 68-2400 (in file)
6. Notification to Abutters Carbone, 25 Town Way Extension (install tight tank) (in file)
7. Recording of OofC 68-2433 – Shields, Hillcrest Road (in file)
8. Revised plans for 188 Central Ave. – removal of concrete walkway, dune grass planting; concrete deck & block patio removed and replaced with crushed stone & sonotubes added to support decks & porch (in file)
9. Report – Ivas 68-2444 – 305 Country Way (in file)
10. Duggan re: 254 Central Ave. – flood insurance purposes – habitable space lower level (in file brought up for Neil)

11. Revised plans (12/6/12) for 305 Country Way (in file)
12. Notification to abutters from 513 First Parish Road (in file)
13. 28 Dartmouth Street letter explaining why deck hadn't been removed. Husband died 10/25/12; Hurricane Sandy 10/29/12; Nor'easter a day later. The deck design performed perfectly. Now removed
14. Amp&Rsand Stellwagen Bank Newsletter`
15. Recording of CofC for 07-04-16 – Massey, 134 Humarock Beach Road (in file)
16. Recording of CofC for 68-1754 – Massey, 134 Humarock Beach Road (in file)
17. 305 Country Way – e-mail re: Tributary to Tack Factory Pond Reservoir (forwarded to members) (in file)
18. Revised plans for 68-2438 – Gilbert, 36 Border Street (in file)
19. Planning Board re: Form A Application 568 First Parish Road – 2 new buildable lots. COMMENTS by 12/19/12
20. Revised plan for Proposed Salt Shed at the Highway Barn, 68 Captain Peirce Road – adjusted building location
21. Planning Board Agenda for December 20, 2012
22. DEP File #68-2448 – Carbone, 25 Town Way Extension (in file)
23. Note from Susan Ryan re: 513 First Parish Road – impacted town property with ruts, dangerous in winter, also question on paved driveway. (in file)
24. Revised plan for 305 Country Way (revised & dropped off at office Friday, December 14, 2012) (in file)
25. MassDEP For Comment: Regulatory Reform Initiatives and Revised Draft Solid Waste Master Plan
26. Request to continue Booth Hill / Clapp Road ANRAD – first hearing in January. (just received the check) (in file)
27. Request to continue the hearing for 309 Central Avenue (in file)
28. Copy of Dec. 7 e-mail from Lance Van Lenten re: Bruce Bouck (hydro-geologist) from DEP Drinking Water Program re: tributary/ stream off Country Way – state recognizes this as a tributary based on investigations in early 2000. (in file 305)
29. Quitclaim Deed from Registry for McDermott property – Chittenden Road (in file)
30. Request for CofC 68-2434 – 73 Kane Drive – engineer's verification, as-built – no check (in file)

31. e-mail Laura Harbottle re: 14 Oceanside Drive – small retaining wall to hold back dune to keep parking area clear. Ready for FEMA reimbursement and not sure what FEMA's take will be. OK per orders? (in file)

32. Henry Larsen, Jr. re: parcel of land Lot 17 – 22 Shadwell Road. Has given other parcels to the town on Shadwell.

33. Request for CofC from 1998 – 68-950 – engineer's certification and as-built. (in file)

34. Request to continue Lots 1 & 2 for 218 (206) First Parish Road to next available hearing – Unable to revise the plans for the new wetland areas identified by Steve Ivas. (in file)

35. Atty. Michael Loring re: Lot 1 Thomas Clapp – Jesse Anthony – question of uplands on plan is it within the 3.29 acres owned by Mr. Doyle. (in file)

Meeting adjourned 8:45 p.m.

Respectfully submitted,

Carol Logue, Secretary